substantially homologous to a) SEQ ID NO:2, b) SEQ ID NO:2 with a conservative amino acid substitution, c) a nucleic acid of Claim 1 further comprising a heterologous nucleotide sequence encoding a fusion protein, d) the nucleic acid of Claim 1 operatively linked to an expression control sequence, e) an isolated nucleic acid molecule containing 15 or more nucleotides that hybridizes under standard conditions to SEQ ID NO:1, f) or to nucleotides 1-90 of the coding region of SEQ ID NO:1; a transformed host cell with nucleic acid of (d), classified in 435, subclasss 325, culture of host cell under conditions that provide expression of protein.

Group II. Claims 13-19, drawn to isolated protein, purified form of 4AIII with a detectable label, with an amino acid sequence substantially homologous with SEQ ID NO:2 or SEQ ID NO:2 with a conservative amino acid sequence or with SEQ ID NO:4; proteolytic fragments and fusion proteins, classified in class 530, subclass 350.

Group III. Claims 20-22, drawn to a monoclonal antibody having an amino acid sequence substantially homologous to SEQ ID NO:2 that binds to amino acids 1-30 of SEQ ID NO:2, classified in class 530, subclass 387.1.

Group IV. Claims 23-26, drawn to experimental methods using a Xenopus embryo (2 cell stage) classified in class 435, subclass 70.1, of identifying a potential drug that modulates the activity of 4AIII of SEQ ID NO:2 [4AIII plays a role in the differentiation of an embryonic cell to an epidermal cell] to induce transcription of epidermal markers and assay of the marker by RT-PCR.

Responsive to the Requirement for restriction, Applicants elect to prosecute the invention of Group I, with traverse, Claims 1-12, which are drawn to isolated nucleic acid molecules encoding a vertebrate translation initiation factor (4AIII), with a coding sequence of SEQ ID NO:1 or having an amino acid sequence substantially homologous to (a) SEQ ID NO:2, (b) SEQ ID NO:2 with a conservative amino acid substitution, and (c) a nucleic acid of Claim 1 further comprising a heterologous nucleotide sequence encoding a fusion protein, (d) the nucleic acid of Claim 1 operatively linked to an expression control sequence, (e) an isolated nucleic acid molecule containing 15 or more nucleotides that hybridizes under standard conditions to SEQ ID NO:1, or to (f) nucleotides 1-90 of the coding region of SEQ ID NO:1; a transformed host cell with nucleic acid of (d), and to culturing of host cells under conditions that provide expression of the protein.

Applicants respectfully request reconsideration of the Requirement for Restriction, or in the

alternative, modification of the Restriction Requirement to allow prosecution of more than one group of Claims designated by the Examiner in the present Application, for the reasons provided as follows.

Under 35 U.S.C. §121 "two or more independent and distinct inventions ... in one Application may ... be restricted to one of the inventions." Inventions are "'independent'" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "'distinct'" means that "two or more subjects as disclosed are related ... but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE OVER EACH OTHER" (MPEP 802.01) (emphasis in original). However, even with patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

Further, under Patent Office Examining Procedures, "[i]f the Search and Examination of an entire Application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803, Rev. 8, May 1988) (emphasis added).

Applicants respectfully submit that the groups designated by the Examiner fail to define compositions and methods, with properties so distinct as to warrant separate Examination and Search. The compositions of Claims 1-12, of Group I are drawn to isolated nucleic acid molecules encoding a vertebrate translation initiation factor (4AIII) and fragments thereof, etc. that are fundamentally related to the methods of Claims 23-26, of Group IV, drawn to experimental methods using a Xenopus embryo to identify a potential drug that modulates the activity of initiation factor 4AIII to induce transcription of epidermal markers and assay of the marker by RT-PCR. The search for any of the methods separately classified by the Examiner as the invention of Group IV would require an additional search of the **identical** classes wherein the nucleic acids of Group I are classified, thus resulting in a duplicate search for the same material. Thus, Applicants submit that the Search and Examination of the entire Application, or, at least, of Group I with Group IV can be

made without serious burden, and therefore the Examiner must examine all of the claims of the Application on the merits.

The Examiner's assertions to the contrary notwithstanding, Applicants respectfully submit that conjoint examination and inclusion of all of the Claims of the present Application would not present an undue burden on the Examiner, and accordingly, withdrawal of the Requirement for Restriction, or, at the least, modification to include the Claims drawn to Group I and Group IV is in order.

No additional fees are believed to be necessitated by the foregoing Response. However, should this be erroneous, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment, or credit any overages.

In view of the above, withdrawal of the Requirement for the Restriction is requested, and an early action on the merits of the Claims is courteously solicited.

Respectfully submitted,

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